

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

MARLIN SILVA,

Plaintiff,

v.

Case No: 5:21-cv-417-MMH-PRL

**JOHN H. BURCH, JR. , MICHAEL
FACUNDUS, ERICA BURCH, RISE N
VAPE SMOKE SHOP LLC. '35;1, RISE
N VAPE SMOKE SHOP 2 L.L.C.,
RISE N VAPE SMOKE SHOP LLC and
RISE N VAPE SMOKE SHOP LLC.
'35;4,**

Defendants.

ORDER

Before the court is a motion for clerk's default filed by Plaintiff against Defendant Rise N Vape Smoke Shop 2 LLC (Doc. 14) and an unopposed motion for an extension of time to respond the complaint and petition to set aside default filed by all defendants. (Doc. 16).

On October 7, 2021, Plaintiff filed the motion for clerk's default and Defendants' counsel made an appearance in the case. (Docs. 14, 15). Counsel represents that the defendants formally retained him on October 7, 2021, one day after the response deadline of Rise N Vape Smoke Shop 2 LLC. (Doc. 16). Defendants now seek an extension to respond to the complaint. Defendants represent that the plaintiff does not oppose the motion.

Accordingly, the motion for clerk's default is due to be denied in light of the defendants' appearance and request for an extension. Additionally, the requested extension to file a response to the complaint is due to be granted. Defendants shall file their response on or before October 29, 2021. Defendant Rise N Vape Smoke Shop 2 LLC also requested that

the entry of default be set aside. However, clerk's default has not been entered against the defendant.

DONE and **ORDERED** in Ocala, Florida on October 8, 2021.



PHILIP R. LAMMENS
United States Magistrate Judge

Copies furnished to:

Counsel of Record
Unrepresented Parties